

Town of Lovettsville

Planning Commission

Minutes of Public Hearing and Regular Meeting, October 7, 2009

The Public Hearing of the Lovettsville Planning Commission on LVZA 2009-0006 Model Home; Construction and/or Sales Trailer – Zoning Ordinance Amendment was called to order by Vice Chairwoman Mari Bushway on Wednesday, October 7, 2009 at 7:31 P.M. at the Lovettsville Town Hall, 6 East Pennsylvania Avenue, Lovettsville, VA 20180.

Welcomes and Introductions

Vice Chairwoman Bushway welcomed the citizens attending the meeting and thanked them for coming. She introduced Mayor Walker and Planning Commissioners Lorraine Bauer, Jack Burden, Elaine Fischer and Rodney Gray. She also introduced Town Manager Keith Markel, Zoning Administrator Steve McGregor and Town Clerk Judy Kromholz.

Absent

None

Audience

Among those present in the audience were Bing Lam and Frank Kromholz

Explanation of Procedures and Opening of the Hearing

Vice Chairwoman Bushway read the Public Notice of this Public Hearing as it appeared in *Leesburg Today* on September 25, 2009 and October 2, 2009 (Attachment I).

Presentation

Administrator McGregor made a presentation on Zoning Ordinance Amendment LVZA 2009-0006 Model Home; Construction and/or Sales Trailer – Zoning Ordinance Amendment (Attachment II)

Public Speakers

Vice Chair Bushway introduced the speakers in the order in which they had signed up to speak (Attachment III).

- 1 Bing Lam
 - Does not oppose sales model concept, it goes on throughout all subdivisions.
 - Does want additional safeguards that would protect the rights and safety of the residents.
 - States that there is an existing model home in Lovettsville Town Center that is in the middle of a street, not near an entrance to the development. It is too near residents and there will be cars parked in front of residences if the model home is near them.
 - Sales activity should pertain only to homes within that subdivision.
 - Model homes should be near an entrance to a development to minimize traffic.
 - Multiple models should be clustered.
 - Temporary trailers should be permitted only if there are no model homes in the subdivision.
 - There should be some sort of significant penalty for noncompliance.

No other speakers had signed up to speak. Vice Chairwoman Bushway confirmed that no other member of the audience wished to speak. She read a written statement that had been submitted by the Northern Virginia Builders Association (attachment III) for this Public Hearing.

There being no further speakers, Vice Chairwoman Bushway declared the Public Hearing closed at 7:49 P.M.

Vice Chairwoman Bushway called the Regular Monthly Meeting of the Lovettsville Planning Commission to order at 7:49 P.M.

Election of Planning Commission Officers

Due to the resignation of Chairman Zachritz, the Commission elected new officers to complete existing terms.

Motion: To nominate Mari Bushway as Chairwoman of the Lovettsville Planning Commission.
By: Commissioner Fischer
Second: Commissioner Gray
Aye: Commissioners Bauer, Burden, Fischer, Gray
Nay: None
Abstain: Commissioner Bushway
Absent: None

Motion: To nominate Rodney Gray as Vice Chairman of the Lovettsville Planning Commission.
By: Commissioner Fischer
Second: Commissioner Burden
Aye: Commissioners Bauer, Burden, Bushway, Fischer
Nay: None
Abstain: Commissioner Gray
Absent: None

Public Comment

No member of the public signed up to speak (Attachment V).

Additions/Deletions/Modifications to the Agenda

Chairwoman Bushway called for changes to the agenda. There were none.

Approval of Planning Commission Minutes

1. Planning Commission Regular Monthly Meeting – June 3, 2009

Motion: To approve the June 3, 2009 Planning Commission Meeting minutes.
By: Commissioner Bushway
Second: Commissioner Fischer
Aye: Commissioners Bauer, Burden, Bushway, Fischer, Gray
Nay: None
Abstain: None
Absent: None

2. Planning Commission Public Hearing and Regular Monthly Meeting – July 1, 2009

Motion: To approve the July 1, 2009 Planning Commission Public Hearing and Meeting minutes.
By: Commissioner Gray
Second: Commissioner Fischer
Aye: Commissioners Bauer, Burden, Bushway, Fischer, Gray
Nay: None
Abstain: None
Absent: None

Staff Reports

Administrator McGregor presented his report for August 2009. There were no questions from the Commission.

Action Items

A. LVZA 2009-0006 Model Home/Construction & Sales Trailer

Commissioner Burden asked if there was a way to restrict the location of the model home in the community, stating that he believes models should be in open areas. He also asked if there could be multiple model homes. Administrator McGregor reported that the Council had requested language that allows model homes for each builder in the community. Commissioner Burden asked if the existing model home in Lovettsville Town Center would be subject to this ordinance and Administrator McGregor replied that the model would be required to follow all ordinances and have an occupancy permit.

Commissioner Gray asked if there is any language regulating the appearance of the sales trailers, including landscaping requirements. He noted the difference between a sales trailer and a construction trailer. Administrator McGregor stated that some language concerning sales trailers in the current ordinance had been removed in the proposed ordinance. The Commission agreed to restoring that language as it appears currently in Article 3, 1(b) vii, paragraph G.

Commissioner Burden asked why construction trailers would be required to have parking spaces and Administrator McGregor explained that those spaces would be for inspectors and others visiting the site.

Commissioner Gray asked if the builder would be required to bring the lot back to its original condition after removal of a sales or construction trailer. Manager Markel explained that they are under bond and bonding would not be released until the lot is restored.

The Commission agreed that the language defining a major improvement in this section of the ordinance is to be removed and the generic definition of major improvement will apply.

Commissioner Gray confirmed with Administrator McGregor that construction trailers will now be allowed in all districts where it is not currently allowed, including light industrial districts.

Commissioner Bauer asked if there are limits on the hours the sales office or trailers may be operated and Administrator McGregor stated that hours would be regulated by the Town's normal business hour regulations in other sections of the ordinance. The Commission discussed this issue and agreed that it would take care of itself; the builders would not be paying to staff the trailers or models outside of normal hours.

There being no other comments from the Commissioners, Chairwoman Bushway called for a motion and a vote.

Motion: I move that the Planning Commission recommend approval of the proposed text in item LVZA 2009-0006 Model Home; Construction and/or Sales Trailer presented in the October 7, 2009 public hearing staff report with the revision that the Construction and/or Sales Trailer use be permitted in all zoning districts where it is not now permitted; and to add the existing Article 3, section 3-1, (b) vii paragraph G; and omit proposed Paragraph G Article 3 District Regulations section b, vii, construction and or sales trailers as amended.
By: Commissioner Burden
Second: Commissioner Fischer
Aye: Commissioners Bauer, Burden, Bushway, Fischer, Gray
Nay: None
Abstain: None
Absent: None

Comments from the Mayor and Commissioners

Chairwoman Bushway called for comments from the Mayor and the Commissioners.

Manager Markel congratulated Commissioner Bauer for attending the Planning Commissioner Training Program in Harrisonburg.

Mayor Walker reported on the following:

- Monday, October 12th, Town Hall is closed in honor of Columbus Day.
- She stated for the record that Mr. Markel was cleared in court of all accusations brought by Mr. Lam.

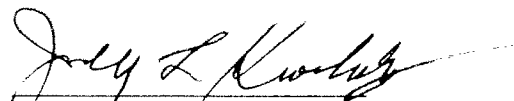
Adjournment/Recess

There being no further business before the Commission, Chairwoman Bushway called for a motion.

Motion: To adjourn the Planning Commission Meeting of October 7, 2009
By: Commissioner Gray
Second: Commissioner Fischer
Aye: Commissioners Bauer, Burden, Bushway, Fischer, Gray
Nay: None
Abstain: None
Absent: None

The Meeting was adjourned at 8:34 P.M.

Respectfully submitted,


Judy L. Kromholz, Town Clerk

Date Approved: January 6, 2010

Attachments:

- I. Public Hearing *Leesburg Today* Notice
- II. Staff Report: LVZA 2009-0006 Model Home/Construction & Sales Trailer
- III. Public Hearing Signup Sheets
- IV. Northern Virginia Builders Association Statement
- V. Meeting Speaker Signup Sheet

PUBLIC HEARING NOTICE

LOVETTSVILLE

PLANNING COMMISSION

The Lovettsville Planning Commission will hold a public hearing at 7:30 PM Wednesday, October 7, 2009, to hear comments from any person on the following:

LVZA 2009-0006 Model Home; Construction and/or Sales Trailers, by the Town of Lovettsville to amend the Town of Lovettsville Zoning Ordinance to:

Add MODEL HOME as a permitted use in all zoning districts that include residential use: Article 3, District Regulations, Sections 3-2 (b), 3-3 (b), 3-4 (b), 3-5 (b), 3-6 , 3-7 (i) (i) (ii) and (iii), and 3-8 (f); Add MODEL HOME to Article 13, Definitions, Sec. 13-2; Add standards for MODEL HOME to Article 3, District Regulations, Sec. 3-1 (b); Add CONSTRUCTION AND/OR SALES TRAILERS as a permitted use in all districts that do not permit it: Article 3, District Regulations, Sec. 3-6, 3-7 (i) (i), (ii), and (iii); 3-8 (f), 3-12 (b), 3-13 (b), 3-14 (f); ADD to Article 13, Definitions, Sec. 13-2; MODIFY CONSTRUCTION AND/OR SALES TRAILERS standards in Article 3, District Standards, Sec. 3-1(b) (vii).

The hearing will take place at the Town Office, 6 E. Pennsylvania Avenue, Lovettsville, Virginia 20180. The text under consideration is available at the Town Office between the hours of 9AM and 3PM weekdays, holidays excepted. Call 540-822-5788.

9/25 & 10/02/09

STAFF REPORT

Town of Lovettsville

PLANNING COMMISSION PUBLIC HEARING

OCTOBER 7, 2009

LVZA 2009-0006 Model Home; Construction and/or Sales Trailer

(Zoning Ordinance Amendment)

Applicant: Town of Lovettsville

Location of Hearing: Town Office at 6 E. Pennsylvania Avenue

Time of Hearing: 7:30PM

Call for Information: Steve McGregor (540)-822-5788

smcgregor@lovettsvilleva.gov

Town Office Hours: 9AM-3:00PM (except holidays)

PURPOSE: To provide a rationale for adding the Model Home use that includes a model home with office use to all zoning districts with a residential component; to provide standards and a definition for the use; for adding Construction and/or Sales Trailer use to zoning districts where it is not already a permitted use; for amending the related standards for the use and adding a definition for the use. The staff report discusses the issues related to the two uses and provides a proposal to amend the Zoning Ordinance text to address the issues.

BACKGROUND: After it came to the attention of the staff and Zoning Administrator that the Ordinance does not provide for a model homes and model homes with sales office use for residential development. The issue also involves the Construction and/or Sales Trailer use, which is permitted in residential ("R") zoning districts but not other zoning districts where such use would be needed as part of the construction and sales process. The issue was brought to the Town Council and discussed. On September 17 the Council directed the Planning Commission, staff and Zoning Administrator to develop a staff report with recommended text changes and schedule a public hearing before the Planning Commission, hopefully at its October meeting. The Planning Commission was informed about the staff plans for this item before it went to the Council for authorization.

DISCUSSION: In recent discussions with Elm Street Development about establishing a model home with sales office in the Lovettsville Town Center for the residential portion of the development, staff and the Zoning Administrator observed that there is no temporary office use for sales of the development permitted in the Town Center Planned Development T-C zoning district, for the specific Town Core, Residential Areas or the Fringe Areas. This is a basic necessity for any developer when a residential project is approved by the Town and the building process starts. It is a use that is most efficient for the developer when it is on-site. This is the case throughout the region and the country.

Some of the zoning districts with a residential component allow a temporary construction and/or sales trailers use. In addition, the type of sales structure has evolved so that sales trailers are not the only structural form used by developers to sell their product on-site. The model home with office has become an attractive alternative. Some projects need model homes without sales offices to potential home buyers. This should also be allowed as a means to facilitate sales.

In their request for a model home with sales office Elm Street Development raises an issue that should be considered on a Town-wide basis because the Ordinance is limited in its allowance of this temporary use. It is reasonable that all, not just some, zoning districts with a residential component should provide for temporary sales activity in the types of structures that are most commonly used

by builders and developers. It serves the Town's economic development planning objectives to provide uses on residential sites that facilitate sales in that project.

Not all zoning districts permit Construction and/or Sales Trailer use as a temporary use, only the residential ("R") districts. The other districts with residential use, (Town Center Planned Development T-C, Planned Infill District, and Retirement Community R-C) also need the opportunity to install this use on a temporary basis, as do the developments in commercial and industrial districts. There are some standards for the Construction and/or Sales Trailer use that should be updated. Text wording from the ordinances of other jurisdictions have been used for this purpose when applicable. The standard for the time limit needs to be simplified, tied directly to the issuance of the last occupancy permit. Standards for handicapped parking for office uses have to be added as requirements for both Model Home use and Construction and/or Sales Trailer use. The setback for trailers now mandated is thirty feet. The most common front yard setback for permanent structures in residential zoning districts is twenty feet. This seems to be reasonable for a temporary use, as well as permanent structures. Renewal permits for the use are not needed when the text is changed so that the permit is valid until the last occupancy permit is issued.

CONCLUSION: Through an unintentional oversight the Town Center Planned Development T-C zoning district, and other zoning districts with a residential component, does not allow a temporary on-site model home with or without sales office use, which is a basic tool for selling residential development when a subdivision is under construction. As a related issue, the Zoning Ordinance does not allow a temporary construction and/or sales trailer use for all zoning districts. The existing standards do not adequately reflect the sales needs of builders and developers. Therefore, the Town should consider updating the Zoning Ordinance to 1) allow Model Home use with or without sales office use in zoning districts with a residential component; 2) provide standards for Model Home use with or without sales office use; 3) provide a definition for Model Home use; 4) amend related standards for Construction and/or Sales Trailer use; 5) add Construction and/or Sales Trailer use to those zoning districts that do not permit it currently; and 6) update and make editorial changes to the name and standards for Construction and/or Sales Trailer use.

RECOMMENDATION: It is recommended that the Planning Commission recommend approval of the following proposed text amending the Zoning Ordinance:

ADD: To Article 3, District Regulations, Sec. 3-2 (b), CR-1 district, Permitted Uses, a new sub-paragraph (xix),
To Article 3, District Regulations, Sec. 3-3 (b), R-1 district, Permitted Uses, a new sub-paragraph (vi),

To Article 3, District Regulations, Sec. 3-4 (b), R-2 district, Permitted Uses, a new sub-paragraph (vi),
To Article 3, District Regulations, Sec. 3-5 (b), R-3 district, Permitted Uses, a new sub-paragraph (vi),
To Article 3, District Regulations, Sec. 3-6, Retirement Community R-C district, a new sub-paragraph (r),
To Article 3, District Regulations, Sec. 3-7, Town Center Planned Development T-C district, (i “eye”), Permitted Uses, Town Center; Town Center Residential Area, (i) (ii), a new sub-paragraph (E),
To Article 3, District Regulations, Sec. 3-8 (f), Planned Infill Development district, Permitted Uses, a new sub-paragraph (vi),
all of the above to read:

“Model Home.”

ADD: To Article 3, District Regulations, Sec. 3-7 (i “eye”) (ii “two”), Town Center Planned Development T-C district, Permitted Uses, Town Center, Town Center Core, (i) (i) a new sub-paragraph (G); Town Center Fringe, (i) (iii), a new sub-paragraph (E),

all of the above to read:

“Construction and/or Sales Trailer.”

ADD: To Article 13, Definitions, Sec. 3-2, in alphabetical order, to read:

“MODEL HOME: A building having the physical characteristics of a residential dwelling, which exists for the purpose of display or advertising in connection with the sale of units in a residential development on a temporary basis. It may incorporate an office use that is directly related to the sales function of the building. The ultimate intended use of such a building is as a dwelling.”

ADD: To Article 13, Definitions, Sec. 3-2, , in alphabetical order, to read:

“CONSTRUCTION AND/OR SALES TRAILERS: A structure standing on wheels, towed or hauled by another vehicle and used temporarily for sales of the units in the subdivision, or subdivision section, in which the trailer is located; and in which sales and construction of units is planned or underway.”

ADD: To Article 3, District Regulations, Sec. 3-1, a new sub-paragraph (xx), to read:

“MODEL HOME: The use is permitted subject to the following provisions:

(A) The use may be located in any zoning district that includes a residential use, provided such use is located within the recorded subdivision it serves. It may incorporate a sales office.

- (B) The use must conform with all applicable requirements of the Zoning Ordinance.
- (C) The use is permitted until the issuance of the last occupancy permit within the subdivision it serves.
- (D) The Town may require a bond as appropriate to ensure that the atypical features, including, but not limited to, utilization of the garage for a sales office, will be removed or brought into conformance with residential building code requirements prior to conversion of the unit for residential occupancy.
- (E) Two (2) off-street parking spaces shall be provided on the lot where the use is located for the public and these spaces include the required handicapped space. The use must comply with any requirements that apply for handicapped parking for commercial office use.
- (F) All signs must comply with applicable Zoning Ordinance provisions.

MODIFY: Article 3, District Regulations, Sec. (b) (vii), CONSTRUCTION AND/OR SALES TRAILERS, to read:

“CONSTRUCTION AND/OR SALES TRAILERS: The use is Construction and/or sales trailers are permitted subject to the following provisions:

- (A) The trailer use shall be located on a lot parcel or site that is within a recorded subdivision or on a parcel with an approved site plan that is directly related to its purpose. Its location is subject to any applicable approved proffers.
- (B) The maximum period allowable for the use is permitted until the issuance of the last occupancy permit is approved for the development and until the completion of any bonded public improvements. placement of a temporary construction and/or sale trailer shall be six (6) months or until completion of the project, whichever is shorter. Requests for renewal for a successive six (6) month period may be submitted if additional time is required to complete the project. Renewal requests shall be filed at least thirty (30) days prior to the expiration date of the original permit.
- (C) The use Each construction or sales trailer shall have a minimum of provide two (2) off-street parking spaces on the lot or land on which the use is located. These parking spaces shall include the required handicapped space. The use must comply with any requirements that apply for handicapped parking for office use. Parking spaces may have a gravel surface.
- (D) A minimum lot area of two thousand (2,000) square feet shall be provided for this use. each temporary trailer space

- (E) The use Trailers shall not be located closer than twenty (20) feet from the property line of the lot upon which it is located. within any required front yard or required side or rear yard.
- (F) A zoning permit shall be obtained for the use at least ten (10) business days prior to the time it is placed on the property. construction and/or sales trailer.
- (G) The use Construction and/or sales trailers shall be considered a minor improvement providing no site grading is required for the placement of the trailer; and if it is considered a major improvement and subject to the applicable regulations for major improvements.
- (H) A building permit is required from the County and a copy has to be filed with the Town within ten (10) business days of the placement of the use on the site.
- (I) ~~The Zoning Administrator shall review and approve or deny applications all requests for temporary construction and/or sales trailer permits. In assessing a request for a temporary trailer permit, The Zoning Administrator shall determine the appropriate number of trailers for the site, the need for and design of landscaping on the trailer site, and any other amenity that they shall deem in the interest of protecting adjacent residential property (zoned, planned or in use). consider the necessity for such a temporary construction and/or sales trailer, its location and its effects on the surrounding neighborhoods and/or adjoining property owners and may require terms and conditions on the location and placement, type and number of trailers, screening and other reasonable conditions~~

DRAFT MOTION: "I move that the Planning Commission recommend approval of the proposed text in item LVZA 2009-0006 Model Home; Construction and/or Sales Trailer, presented in the October 7, 2009 public hearing staff report."

Town of Lovettsville

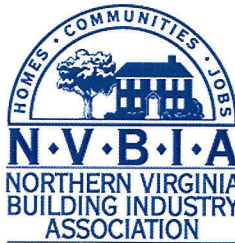
Request to Speak at Public Hearing

Date: 10/7/09

Speaker # _____

(Clerk's Use Only)

Subject	<u>Zoning Ordinance Model Home</u>
Name (Please Print)	<u>Bing Lam</u>
Mailing Address	
Telephone Number	
Email Address	
Organization (If you represent a group)	



October 5, 2009

Town of Lovettsville
Planning Commission
6 East Pennsylvania Avenue
P.O. Box 209
Lovettsville, VA 20180

RE: LVZA 2009-0006

Dear Chairman and Members of the Planning Commission:

The Northern Virginia Building Industry Association's Loudoun Chapter would like to support the Town's proposed Zoning Ordinance Text Amendment to allow model homes and sales/construction trailers in each zoning district that allows residential use. By undertaking this text amendment, the Town is proactively addressing an issue that burdens the homebuilding industry in Loudoun County. Model Homes and Sales/Construction Trailers are generally recognized as necessary and integral to home sales, and we applaud you and your staff for taking this initiative.

Sincerely,

Sally Hankins
President, NVBIA, Loudoun Chapter

Town of Lovettsville

Speaker Sign - Up Sheet

Planning Commission Monthly Meeting - October 7, 2009

Please Print.

Name and Association	Address	Topic	Email Address (Optional) ¹

Each speaker will be limited to no more than three (3) minutes at the beginning of the meeting, or
no more than five (5) minutes at the end of the meeting.

¹ If you provide your email address, you will be added to the Town Council & Planning Commission Meetings Notification List.